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Money and usury

[United States]

1869

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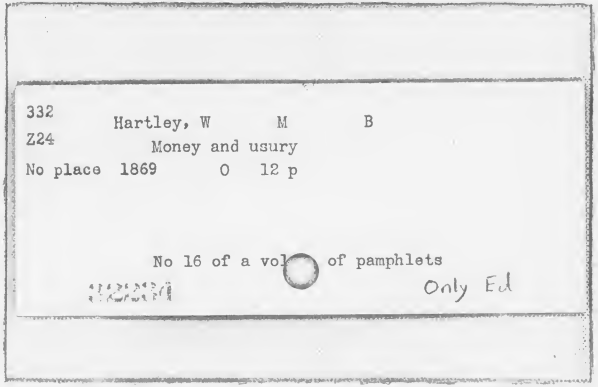

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MONEY AND USURY.

W. M. B. HARTLEY.

1869.

MONEY.

What a talismanic word! It thrills through the nervous system of all civilized mortals, and even the painted savage in his bark canoe, had coils of wampum stowed away, as he floated down the Hudson or paddled cheerfully up the Connecticut.

The lives of most men are spent in an unceasing scramble for coppers. The farmer, who is considered a benefactor, accumulates in proportion to the amount of land he puts under cultivation, his necessary wants are few, supplied at a minimum cost, and while he sleeps, his cattle may grow and fatten on his pastures, or chew the cud for his advantage during the midnight hours.

The money lender has also an advantage over the artisan and trader ; for his interest account never sleeps, or goes to church, but is toiling silently, remorselessly on, throughout the three hundred and sixty-five days and a fraction, every year, and these two classes have become *great* powers throughout the land, and special statutes have been made to fatten and strengthen them. Their taxes are insignificant, and out of proportion to those paid by men who have to do all their own work, and have but sixty hours a week to do it in—to whom rains and the great warmth of the sun are often a set-back and discouragement, the rain drops which the farmer complacently hears pattering on the roof, or sees covering his hills with verdure, the winds which pump the fat of the land into his stalks, and the blazing noon-day heat which gilds his fields, have often a harsh sound, and a torrid aspect to great classes of toilers, both by sea and land, throughout the world.

The desire for land and wealth during age after age, has led to great political and social changes, Virgil has described the delights and ease of a country life ; and Horace has written of the luxuries which wealth affords, they are all well known by repute, and require no hexameters to make humanity crave them. But royal grants and feudal tenure, with its vassalage, are fast disappearing, men are becoming freer, and on this continent at least, these relics of the past have gone, and all may have land who will. But we have one tyrant left, and it would not be strange, if, during the coming struggle for the spoils of office, in which the American people periodically engage, the whole contest should turn on questions of finance. Already two leading and able men, differing in party and policy, but aspiring to be statesmen, have taken up the question of currency. Pendleton, will be eloquently heard throughout all the West, while Butler, with his keen argument, will urge concessions at the East, and they have both given it extended, bold, and vigorous handling ; and not here, alone, is this question of money agitating the people ; in France, where the financial system has enriched the few at the expense of the many, should any revolution occur, and it is almost a certainty that it will, on the demise of Napoleon, the Republicans who have carefully and sedulously preserved their organization, will be content perhaps to adopt or banish the charming and charitable Empress and the young popular Prince, but having no more nobility to kill, they will make short work of the bankers, and George Sanders may yet have an opportunity of running the steam guillotine he threatened them with in 1848.

And here in our midst, there is a growing feeling among the masses of the population, that there is something rotten in our system, and that we are sadly deficient

in financial fitness to attain our old prosperity. People look each other in the face and ask, what is the matter? and why men who are fearless, industrious, liberal and working for success, should not succeed? And they remember then those palmy days of *greenbacks*, when even in the midst of carnage, sorrow, death and lamentation for those who had fallen, their families had all the comforts of life; they paid off old debts, made new developments, industry thrived, we had what appeared, for the time, an adequate circulating medium, at the North. But the war came to an end! The South, which spreads over a territory equal to many kingdoms, its own currency annihilated in a day, and turned to waste paper—its inhabitants craving food and raiment—its plantations now teeming with cotton, rice, sugar, tobacco, hemp and corn, have absorbed millions of our currency. The thousands arriving daily on our shores from Europe, and going in heavy caravans to the Great West, are using and accumulating it ; men engaged in trade and commerce have, with the present limited number of banks and bankers, a totally inadequate supply of currency to do their business, and the men who originated the currency, accumulated it in their coffers, bought real estate, houses, stores, diamonds, carriages, horses, pictures, jewelry and Government bonds (free from taxation,) and now they want all this property to double in value, by putting things——on a *specie basis*, and getting into what they call a "healthy condition," a powerful hygienic measure, which would kill more than it would cure. If you want to know one of the great causes of our present stagnation—if you are not within the palace-gates of those who lend and borrow money at high usance, go to your fellow-trader, with bated breath, as though you were about to commit a crime,

and ask him for a temporary loan—ask ten of them—and although they have good stout hearts, families and comfortable homes, perhaps, you will find, could you lift the roofs, that there are here all around, skeletons in almost every house, and although we do not appear to have statesmen like those who toiled and fought and thought for us a century ago; men who could rise above all parties, when the great interests of the people were in danger; such men as filled the Senate Chambers, even in our time, when you could look down from its gallery upon a dignified body of honest men. Yet, without knowing the remedy, the people can see that the commerce and trade of the United States is not what it should, be nor what it has been. Our vessels, that like fabled Argosies, whitened every sea, are gone! Our shops and factories no more resound, day and night, with the buz of spindles, the click of machinery, or pour forth the relays of cheerful faces which once issued in great jostling masses from their doors. Our merchants expend their efforts in the struggle for a bare paper existence; a hand-to-hand encounter with bankers, the needle of whose compass either wanders wildly round the circle or points to that great Maelstrom—*the Stock Exchange*—that gigantic faro bank, which is doing the duty attributed to Samson; with this difference, that the race of victims to-day, in his time, furnished the weapon.

With the present limited, banking facilities which are totally inadequate to our wants, the money lenders are becoming overbearing, intolerant, intolerable and speculative, controlling now the great iron highways, then the precious metals, which the Government demands for its duties, and they feel no obligation to sustain in time of need, the trader, the merchant, or the mechanic, who

have supported and enriched them with their deposits in times gone by, combining to make an artificial stringency, that compels high or low prices, as they may decide, throttling legitimate trade and industry, which it should be their mission to sustain and encourage.

This is not altogether a new phase in the history of finance; usurers have existed in all civilized countries since the earliest dawn of commerce. They have been denounced by the fathers of the early church, they have been massacred by hundreds, even in England. The law regarding usury has been subject to great changes, and many eminent jurists and writers have differed radically in their views on the subject of usury laws. The word usury is not so repulsive to the masses as it has been in the past, but its significance remains, and the effect of usurious interest is fully appreciated.

As a body, Americans are not disposed to ignore contracts made in good faith, however onerous and exacting the terms which may have been agreed upon. They want money, want a great deal of it, want it promptly, and are not disposed to litigate with an individual or a soulless corporation that may have relieved their distress. But it is a grave question, how far the laws should interfere with the rate of interest, and although learned jurists and pundits have disagreed, the weight of testimony is in favor of a wholesome regulation by law of the rate of interest, standing between Juggernaut and his self-sacrificing victims. The word usury is often used by early writers to mean what we now call simple, and would consider at this day, reasonable interest; that which Blackstone has called "the inseparable companion of commerce." Bacon advocated the allowance of usury, assigning as a reason that "men "are so hard of heart that they would not lend fairly."

Jeremy Bentham, in his day, wrote a defence of usury. Sir Edward Faynes is reported to have said in the House of Lords, "shew me a state without usury, and I will "show you a state without trade." Solon of Athens placed no restrictions on trade in money when he gave laws to the Athenians, but as he declared all debtors free from debts, they could afford to pay a good premium for a time. Our countryman Murray, who has wielded both pen and sword in his time, and written an admirable treatise on the history and laws of usury, sides with the advocates of unrestricted money lending, but we do not think the experience of the past and present sustains the arguments adduced by these eminent men.

Here in our midst we have a broad avenue, "paved with good intentions," and it has been suggested to open and extend it to the Bowery. *But its morality has fallen* so far below the doctrines promulgated from the Mount of Olives, or the *laxer* rules of the Mosaic dispensation, that it might do Chatham Street an injustice, as Shakespeare did historically, when he made the money-lender a Jew, and called him Shylock. The original lender was a Christian.

All people throughout the world have condemned usury. The Bible, the Koran, the Talmud, the Tables of China, all European governments have at times expressly condemned it. Dr. Fenton says: "all authority, "civil and humane, ecclesiastical and prophane, natural, "and of all ages, old, new, middling, of all churches, "primitive, superstitious, reformed, of all common "weals, Jewish, Christian, heathenish, of all laws, for- "raine and domesticall, are against usurie, and it never "even was defended for fifteen hundred years after "Christ."

Another writer quoted by Murray, says: "God, na-

"ture, reason, all scripture, all law, all authors, all doc- "tors, yea, all councils, are against usurie. Philoso- "phers, Greeks, Latins, lawyers, divines, catholics, her- "etics, all tongues, all nations, *have thought an usurer as* "*bad as a theefe*." The Mosaic law prohibited it. It was for centuries denounced by the early fathers of the church throughout all Christendom.

St. Bazil, bishop of Cesarea, in the fourth century, thus describes the usurer of his day: "The grasping usurer "sees unmoved his necessitous borrower at his feet, con- "descending to every humiliation, inexorable to his en- "treaties, he melts not at his tears, he swears and pro- "tests that he has no money, and that he is under the "necessity of borrowing himself." "Sell," says he, "thy cattle, thy plate, thy household stuff, thine apparel, "sell anything rather than thy liberty: never fall under "the slavery of that monster usury." St. Augustine, Leo the Great, the illustrious Abbott St. Bernard, Pope Alexander the Second, all express their disgust for usurers and extortioners. Calvin and Melancthon held the same views. Pope Alexander VII., and Innocent the I. called it "a horrible and damnable crime."

In 1730, Pope Benedict the XIV. gave his sanction to the exaction of interest, and settled the rate: for although loans on interest had been made throughout the Papal states since the twelfth century, it had never been openly justified. Gerson, in the fifteenth century, had explained the misunderstanding of the term usury, by even learned men, justified the taking of reasonable interest and no more.

Dr. Wilson, who wrote in the time of Elizabeth, advocated the death penalty for usurers. Dr. Noy, Attorney-General in the time of James I., was of the same opinion, and according to an ancient work in the Ex-

chequer, called "Magister et Filburiensis," usurers are ranked with murderers. John Blaxton says the usurer is "known by his very looks, often by his speeches, "commonly by his actions; ever he hath a leane cheeke, "a meagre body, as if he were fed by the devill's allow- "ance, his eyes are almost sunken to the back side of "his head, with admiration of money, his eares are set "to tell the elocke; his whole carcass is a mere anato- "my!" We have improved the breed in physical proportions since Blaxton's day, but it takes more to feed them, and well may we ask, "upon what food do these our Cæsers feed, that they have grown so fat?" In the year 411 of Rome, the taking of interest was prohibited altogether, and usury, according to Tacitus, assumed its worst form. From that period, according to Wilson, the fall of the Roman republic may be dated.

In Justinian's time usury was punished as worse than theft. Cicero, Cato, Seneca and Plutarch denounced it publicly. In England, in the reign of Alfred, the chattels of usurers were forfeited to the King; their lands to the Lords of the Manor, and they were refused Christian burial; to these punishments were added, later, outlawry and disinheritance, whipping, exposure on the pillory, and perpetual banishment. These penalties were, afterwards, modified in the reign of Henry II. in the 12th, and that of Henry III. in the 13th Century. In France, under King John, the Jews were authorized to lend money at 86 per cent.; and the Italians, of London, known as "Merchant strangers," "Causinin" and "Pestis Abominanda," when there was no restriction as to rate, loaned money at from 450 per cent., per annum, which is about half the rate recently paid in Wall street for temporary loans. In the reign of Edward I. usury was an indictable offence,

and Bracton details the horrors of the system. Speaking of usurers, he says: "They were execrated by the people; their rapacity was insatiable; they spared none. Even dignitaries of the church were persecuted for the loan of a few pounds, and in the year 1,290 the Jews were expelled, by Act of Parliament, under pain of hanging; and it was signed by Edward I., although it deprived him of a large revenue. At that time, 1,500 Jews were massacred in York, alone—then followed the Lombards, who were no great improvement on the Jews. In the reign of Henry the VIII. the first act was passed legalizing interest, which was fixed at the rate of 10 per cent. The benefits this statute conferred were soon felt throughout the kingdom—commercial enterprise advanced, and the doctrine of loans, upon interest, were no longer degraded by the law—came to be regarded with favor, and soon triumphed over the bigoted decrees of the church and the prejudices of mankind. This act was repealed in seven years; interest was forbidden, and usury revived and increased until in the time of Elizabeth, the statute of Henry VIII. was revived. Money became abundant, commerce increased, interest was reduced in France to 6½ per cent.: and a statute of James I. reduced it in England to 8 per cent. Sergeant Rolle, in speaking of one clause in this statute, says that: "Usury hath been holden infamous by all statutes, as horrible and damnable."

In the reign of Queen Anne, the rate of interest was reduced to 5 per cent., and this rate is still the law of England, except where particular statutes have empowered the banks of England, and other corporations to loan money on such terms, and at such rates, as they might think proper. The common law of England, adopted in the main by the Colonies, has been modified

and changed in all the States of the Union, and the highest rates are now demanded in States where the law is not restrictive.

If it be true, as asserted by Blackstone, that "unless money can be borrowed, trade cannot be carried on," and as stated by Hume, "that interest being justly considered the barometer of the State: the lowness of its rate is an infallible sign of the flourishing condition of the people, and increase of the industry." Taking the light of past history and the experience of the greatest Commercial Nations, it is prudent to place restrictions, by law, on the rate which shall be taken for money, and if there is a deficiency, nothing can be simpler than to extend our secured system of banking, and authorize the establishment of more banks—granting, in fact, to all who can furnish the security, the right to lend money, and soon the supply will equal the demands. The arts will flourish, commerce will revive, trade will prosper, thousands of acres will be planted: China will send us laborers. Our ships and steamers will penetrate every sea; our mineral wealth, which is held tenaciously by the rocks, will flow out. Our national blessing will, in due time, be funded at a lower rate, for those who want it, or paid off in gold and silver. Uncle Sam, amply secured in his own coffers, will, through the costless agency of his little green notes, be the great reliable broker in ten thousand daily transactions, and the "Pent up Utica" which now confines our powers, may dictate axioms of commerce to the world.

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